

If a purchase order is accepted outside the State, but the property being sold is located in an Illinois jurisdiction that has imposed a local tax, then the location of the property at the time of sale will determine where the seller is engaged in business for the purpose of determining the imposition of applicable local sales taxes. See 86 Ill. Adm. Code 270.115. (This is a GIL.)

April 17, 2006

Dear Xxxxx:

This letter is in response to your letter dated November 11, 2005, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

ABC is a STATE corporation registered to do business in the State of Illinois. We are in need of an official opinion as to the Home Rule Municipal ROT that we should charge on the receipts received under conditional sales contracts. Our conditional sales contracts are leases with a dollar or other nominal option to purchase.

We lease commercial equipment, under conditional sales contracts, to customers in Illinois. ABC has four main offices located in four states, STATES. Our contracts are accepted at all four of our office locations.

ABC does not have a warehouse or inventory of equipment. Once a customer is credit approved, the equipment is ordered, customer signs the conditional sales document, equipment is delivered, and then with customer approval, ABC pays the vendor and executes the contract.

According to Title 86 Part 270 Section 270.115 b) 1), if the transaction is accepted in our IL CITY office and the customer receives the physical possession of the property in Illinois, ABC incurs Home Rule Municipal ROT liability in IL CITY. Is this a correct statement and if so, would we charge the IL CITY rate on all installments received under contracts accepted at our IL CITY location?

According to Title 86 Part 270 Section 270.115 b) 3), if a purchase order or contract is accepted outside Illinois, but the tangible personal property which is sold is in an

inventory of the retailer located in a Home Rule Municipality at the time of its sale, the place where the property is located at the time of the sale will determine where the seller is engaged in business for Home Rule ROT purposes. ABC does not have inventory, however, the property being sold is usually at the customer's location when the vendor is paid and the contract is executed by ABC. According to General Information Letter ST 97-0377 GIL, 'The rate of tax applicable to conditional sales will depend upon whether the sale was transacted in Illinois or outside Illinois. If purchase order acceptance occurred outside Illinois and the lessor maintains no inventory in Illinois, the applicable tax rate is 6.25%.' The situation described in this letter closely mirrors that of ABC. Therefore, is ABC liable for Home Rule Municipal ROT on installments received under contracts accepted at one of our offices located outside of Illinois?

Thank you for your time and consideration in this matter. If additional information is needed I can be contacted at the above address, via phone or via email.

DEPARTMENT'S RESPONSE

For your general information, please see the Department's regulation at 86 Ill. Adm. Code 270.115 for guidance concerning jurisdictional questions. In general, the imposition of the various sales tax related local taxes in Illinois are triggered when "selling" occurs in a jurisdiction imposing a tax. The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. 86 Ill. Adm. Code 270.115.

The tax rate is fixed by the location of the seller, not the delivery location. The fact that the item being sold is shipped from out-of-State or from another Illinois location is immaterial for purposes of local taxes if the sale occurs through order acceptance in an Illinois jurisdiction imposing a local tax. For these transactions the local tax will be incurred. Although 86 Ill. Adm. Code 270.115 deals with the municipal Home-Rule taxes, the principles outlined in this regulation apply to all local taxes administered by the Department.

If a purchase order is accepted outside the State, but the property being sold is located in an Illinois jurisdiction that has imposed a local tax (see, for example, Section 270.115(b)(3)), then the location of the property at the time of sale will determine where the seller is engaged in business for the purpose of determining the imposition of applicable local sales taxes. If purchase order acceptance occurs outside of Illinois and the "lessor" under a conditional sale maintains no inventory in the State, then the tax rate is 6.25%.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
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